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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,000	02/09/2004	James E. Cullinan	D546.5.1CIP	2530

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EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/775,000	Applicant(s) CULLINAN, JAMES E.	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 10, 11, 13, 16, 17, 19, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 12, 14, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2 IDS's</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species VI in the reply filed on December 5, 2005 is acknowledged. The traversal is on the ground(s) that claims 9-11 "make no changes to the menu section." But claims 10 and 11 are drawn to Species I. (Figs. 2-4), which clearly includes a different menu section than is disclosed in the elected embodiment (Figs. 14-16). Applicant further argues that Fig. 18 includes all of the features of the elected embodiment but also includes additional features. This is not found persuasive because it is precisely those additional features that makes Fig. 18 a patentably distinct embodiment.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4-8, 10, 11, 13, 16, 17, 19, 21 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 5, 2005.

Specification

3. The disclosure is objected to because of the following informalities: on page 16, line 11, it appears that "upper web portion 330" should be "second end lower web portion 326".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3611

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Padgett (2,515,664).

Padgett discloses a frame **10** that defines a frame space and interchangeable menu sections **12** having a width such that they fill the frame space. Each of the interchangeable menu sections **12** have a web with a top, bottom and center; a lower front flange **13** with a lower lip that forms a lower front channel; and an upper front flange **14** with an upper front lip that forms an upper front channel.

6. Claims 1-3, 9, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Moynihan (1,644,742).

Moynihan discloses a frame **11** that defines a frame space and interchangeable menu sections (Fig. 5) having a width such that they fill the frame space. Each of the interchangeable menu sections have a web with a top, bottom and center; a lower front flange **13** with a lower lip that forms a lower front channel; and an upper front flange **14** with an upper front lip that forms an upper front channel.

Regarding claims 14 and 18, see Fig. 5.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padgett (2,515,664) in view of Sharon et al.

Padgett discloses the invention substantially as claimed, as set forth above. However, Padgett uses rods 16 to secure the menu sections 12. Sharon teaches that it was known in the art to use magnets to secure menu sections to a frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the rods disclosed by Padgett with magnets, as taught by Sharon, in order to more easily remove and replace menu sections, if desired.

9. Claims 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moynihan (1,644,742) in view of Sharon et al.

Moynihan discloses the invention substantially as claimed, as set forth above. However, Padgett uses screws 10 to secure the menu sections. Sharon teaches that it was known in the art to use magnets to secure menu sections to a frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the screws disclosed by Moynihan with magnets, as taught by Sharon, in order to more easily remove and replace menu sections, if desired.

Allowable Subject Matter

10. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

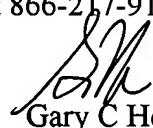
Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary C Hoge
Primary Examiner
Art Unit 3611

gch